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Scott Berman  
Acting Chief Operating Officer  
CDFI Fund  
U.S. Department of the Treasury  
601 13<sup>th</sup> Street, NW  
Suite 200 South  
Washington, DC 20005

Dear Mr. Berman,

The CDFI Coalition (the “Coalition”) is pleased to provide comments as requested by the Community Development Financial Institutions (CDFI) Fund (the “Fund”) regarding changes to its authorizing statute, the *Riegle Community Development and Regulatory Improvement Act of 1994*. We congratulate the Fund for its successful track record building the capacity of certified CDFIs throughout the country. On the fifteenth anniversary of the Riegle Act’s passage, we commend the Fund for providing access to capital and services in low and moderate income communities. As the Fund contemplates its next 15 years, we urge you to consider expanding its offerings to enable CDFIs to participate in an increasingly complex financial system. We believe this challenge requires more capital, training, access to best practices and robust evaluation of CDFI impact.

The Notice for Public Comment asked for comments to amend or update the CDFI Fund’s authorizing statute. The CDFI Coalition is recommending only a modest number of statutory changes. We believe the current authorizing statute is flexible and gives the Fund the broad authority to adapt its programs to a highly diverse and changing industry. Many of the recommendations contained herein are regulatory in nature and can be implemented without action from Congress. We look forward to working in partnership with the Fund to continue to enhance its offerings and activities. We have listed and responded to each question below, and our comments are in bold font.

*A. Community Development Financial Institutions Fund*

1. Community Development Advisory Board.

The statute that authorized the CDFI Fund established the Community Development Advisory Board (Advisory Board), which consists of 15 members, nine of whom are private citizens appointed by the President. The role of the Advisory Board is to advise the CDFI Fund Director on the policies of the CDFI Fund (12 U.S.C. 4703(d)). The CDFI Fund invites and encourages comments and suggestions germane to the need for, purpose and selection criteria of the Advisory Board. The CDFI Fund is particularly interested in comments in the following areas:

(a) Is the current composition of the Advisory Board adequate to represent the needs of CDFIs?

**No. The purpose of the CDFI Advisory Board should be to build the capacity of CDFIs to create greater access to capital in underserved communities. The composition of the Fund's Advisory Board could better serve the needs of CDFIs through: (1) representation by financial institutions regulatory agencies; and (2) greater reliance on CDFI-related experts from the industry as part of its private citizen membership.**

(b) Are there other regulatory or government agencies that should be represented on the Advisory Board?

**Yes. We recommend greater representation by some or all of the financial institutions' regulatory agencies (e.g. FDIC, OCC, Federal Reserve Board of Governors, FHFA, OTS and NCUA) in addition to the current federal agency representatives. If a new consumer financial protection agency is created by Congress, we recommend that agency have a representative on the Fund's Advisory Board as well. With such a diverse set of public bodies represented on the Advisory Board, we recommend increasing the number of private sector board members to make up at least half of the total membership.**

(c) Is the current national geographic representation and racial, ethnic and gender diversity requirement for Advisory Board membership adequate?

**Yes. The Coalition believes the current requirements are adequate. The Administration has largely made appointments that are diverse. However, such representation should also reflect the purpose of the Advisory Board to build the capacity of CDFIs as a means of creating greater access to capital in underserved communities. Diversity goals should be coupled with a requirement that the representatives be actively involved in the CDFI field, and could include a practitioner, funder, a research entity with substantive experience working with CDFIs, or others with direct and substantive experience or expertise working with CDFIs or in community development finance.**

(d) Should there be term limits for the private citizens appointed to the Advisory Board?

**Yes. To ensure more voices contribute to the Advisory Board, a three-year term is appropriate for appointed private citizens.**

(e) Should there be baseline requirements related to the knowledge private citizens appointed to the Advisory Board have about CDFIs and/ or community development finance?

**Yes. As noted above, there should be a requirement that private citizen representatives be actively involved in the CDFI field. Having greater specificity with regard to the types of organizations and individual credentials would be helpful in maintaining the mission and purposes of the Fund. Advisory Board members should be experts who can knowledgeably contribute to that effort.**

(f) Is the requirement to meet at least annually sufficient?

**We believe the number and timing of meetings of the Board should be at the discretion of the Director of the Fund.**

(g) Currently the statute requires that two individuals who are officers of national consumer or public interest organizations (12 U.S.C. 4703(d)(2)(G)(iii)) be on the Advisory Board. Should this requirement be more specific regarding what types of organizations fulfill the requirement?

**Yes. The number of private citizen appointed seats should be increased and at least equal to the number of public board members. As noted above, there should be a requirement that the representatives be actively involved in the CDFI field. Past board members have been drawn from National Community Reinvestment Corporation, the MacArthur Foundation and Opportunity Finance Network, which we believe are the types of national consumer or public interest organizations that the statute originally contemplated.**

## *B. Community Development Financial Institutions (CDFI) Awards*

### 1. Definitions

The statute that authorizes the CDFI Fund defines low-income as an income, adjusted for family size, of not more than 80 percent of the area median income for metropolitan areas and, for nonmetropolitan areas, the greater of 80 percent of the area median income or 80 percent of the statewide nonmetropolitan area median income (12 U.S.C. 4702(17)). The statute defines Target Population as individuals or an identifiable group of individuals, including an Indian tribe, who are low income persons or otherwise lack adequate access to loans or equity investments (12 U.S.C. 4702(20)). The CDFI Fund is interested in comments regarding all definitions found in the authorizing statute, including the following questions:

(a) Are the definitions for low-income and Target Populations still viable? If not, what alternative definitions might be considered?

**The definitions currently in use are adequate. The Fund should monitor the definitions used by other federal agencies for consistency; specifically the financial institutions regulatory agencies. The Fund should propose any definition changes through the public comment process. With regard to Target Populations, the Fund should perform periodic evaluations to confirm that the current interpretation of ethnic or racial groups lacking adequate access to financial products and services is appropriate.**

**The Fund should continue to permit CDFIs to submit information to support their contention that other groups lack such access and deserve status as an “Other Target Population.”**

(b) Should other definitions be added to the statute to ensure that CDFI awards target areas of “high” economic distress? If so, what criteria should be utilized?

**The Coalition does not recommend a return to prioritizing the award of CDFI program monies to applicants serving specific geographic areas of extremely high distress (such as the Hot Zone criteria used several years ago). The goal of the CDFI program is to build the capacity of CDFIs to serve a wide variety of underserved Target Markets. Introduction of overly restrictive criteria will detract from serving many other types of underserved markets and could prevent highly qualified CDFIs with the greatest capacity to generate positive community impact from receiving this important federal funding.**

(c) The term “subsidiary” means any company which is owned or controlled directly or indirectly by another company and includes any service corporation owned in whole or in part by an insured depository institution or any subsidiary of such service corporation; except that a CDFI that is a corporation shall not be considered to be a subsidiary of any insured depository institution or depository institution holding company that controls less than 25 percent of any class of the voting shares of such corporation, and does not otherwise control in any manner the election of a majority of the directors of the corporation. (12 U.S.C. 4702(19); 12 U.S.C. 1813(w)(4)). The term “affiliate” means any company that controls, is controlled by, or is under common control with another company (12 U.S.C. 4702(3); 12 U.S.C. 1841(k)). Are these definitions still viable? If not, what alternative definitions might be considered?

**The Coalition defers to comments made by its individual members who are directly impacted by this provision.**

(d) The Federal Housing Finance Agency (FHFA) has issued its final rule regarding CDFI eligibility for membership in the Federal Home Loan Bank System. In its final rule, the FHFA provided several financial definitions (*e.g.*, net asset ratio, operating liquidity ratio, gross revenues, operating expenses, restricted assets, unrestricted cash and cash equivalents). Should the CDFI Fund adopt any or all of these definitions?

**No. It is unclear from the question the circumstances under which the Fund might apply the above referenced definitions. The CDFI Coalition does not believe it is appropriate for the Fund to adopt the FHFA standards. The proposed FHLB standards were proposed for a wholly different purpose than the purposes of the Fund. In order to retain the flexibility that allows diverse types of CDFIs to become certified, we believe the current definitions are sufficient. The Fund should not defer to another agency in determining the meaning of key definitions or requirements for its own programs.**

(e) Should the CDFI Fund align its definitions for consistency across all CDFI Fund programs?

**While consistency is valuable, we are concerned that definitions specific to a particular program are not always readily transferable across all of the Fund's programs. For example, the Target Populations definition does not transfer well from the CDFI program to the NMTC program. The Fund should examine the underlying purposes of definitions that appear in multiple programs. If the Fund seeks to propose changes when the purposes of the definitions are consistent, it should utilize the public comment process to seek input.**

## 2. Certification

The CDFI Fund's authorizing statute defines a community development financial institution as an entity that: (i) Has a primary mission of promoting community development; (ii) serves an investment area or Target Population; (iii) provides development services in conjunction with equity investments or loans, directly or through a subsidiary or affiliate; (iv) maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or Target Population; and (v) is not an agency or instrumentality of the United States, or of any State or political subdivision of a State (12 U.S.C. 4702(5)). The CDFI Fund provides further clarification and guidance regarding CDFI certification in its regulations at 12 CFR part 1805.201. The CDFI Fund invites and encourages comments and suggestions germane to the criteria and purpose of CDFI certification. The CDFI Fund is particularly interested in comments regarding:

(a) Is the criteria established for CDFI certification adequate to ensure that only highly-qualified CDFIs obtain the certification? Should the CDFI Fund seek to only certify highly-qualified CDFIs?

**The question begs the issue of what "highly qualified" means. We believe financing entities of all types that meet the current criteria should be able to earn certification. If the term "highly qualified" is used to describe applicants for certification that meet the current seven requirements, the CDFI Coalition believes the criteria are adequate. If the question is intended to ask whether more stringent criteria are appropriate, the**

**CDFI Coalition believes changes are not necessary. We recommend that the Fund amend its certification application and materials to make them specific to the various types of CDFIs (e.g. banks, thrifts, credit unions, non-profit and for-profit loan funds, venture funds). Given the vast differences between types of CDFIs, it difficult to use a one-size-fits-all certification application. We further recommend that the Fund, to the maximum extent possible, utilize a web-based certification and recertification process instead of the current paper application to increase efficiency and cost effectiveness.**

(b) Are there types of CDFIs that are prohibited from certification because of the criteria; if so, what changes are needed?

**The Coalition is not aware of any particular types of organizations that are prohibited from certification. However, as noted above, the Fund should refine its certification application materials by institution type. The Fund needs to ensure that predatory lenders cannot become certified as CDFIs. We are not, however, recommending that the CDFI Fund become a regulator of the financial services or products offered by CDFIs. The Fund should ensure that it has and uses multiple screening tools to ensure an organization applying for CDFI certification has a community development mission and is offering services and products consistent with the spirit of the statute.**

(c) Should the CDFI Fund more closely align its certification with the FHFA rule requiring a CDFI to submit with its application an independent audit conducted within the prior year, more recent quarterly statements (if available) and financial statements for two years prior to the audited statement?

**The Coalition is generally supportive of annual reporting by CDFIs as a condition of maintaining a certification. We are, however, concerned that such reporting could be overly burdensome. The data to be collected should be: (1) narrow in scope; and (2) entered electronically or drawn from regulatory agencies in the case of regulated CDFIs. We also strongly urge the Fund to better utilize data already collected from Awardees as a means of reducing paperwork and minimizing the reporting burden.**

(d) Should CDFIs be re-certified on a regular basis and, if so, how often?

**We recommend that recertification be done every 3 to 5 years. Certification is a pre-condition to applying for the Financial Assistance and Technical Assistance components of the CDFI Program. Continued use of the Certification of Material Events form is appropriate until the Fund can offer a streamlined online recertification form. The current certification process does not support an online approach. Thus, until such a process is in place, the Certification of Material Events form is sufficient. The Coalition believes that any criteria adopted for certification should be tailored by CDFI type. Otherwise, there is a risk that a particular type of institution will not be reviewed on equal footing.**

(e) Presently, the CDFI Fund only requires a CDFI to notify it of material events when applying for an award. Should such notification be required from all certified CDFIs on a regular basis (*e.g.*, every year; every three years)?

**The CDFI Coalition supports limited annual data collection from all certified CDFIs. This annual report could include submission of a Certification of Material Events form. The annual report should be designed based on the CDFI Data Project to which many CDFIs voluntarily supply information. A mandatory Fund requirement that collects basic data on the size, scope and impact of the industry is important to understanding this critical segment of the financial services industry. We welcome the opportunity to work with the Fund on the data collection requirements to strike a balance between getting data on key benchmarks and not overburdening CDFIs.**

(f) Currently, CDFI certification review does not entail an assessment of an organization's underlying financial soundness. Should the CDFI Fund require any or all of the following financial documentation as a condition of certification?

- (i) Net asset ratio to total assets of at least 20 percent, with net and total assets including restricted assets (net assets are calculated as the residual value of assets over liabilities);
- (ii) Positive net income (gross revenues less total expenses) measured on a three-year rolling average;
- (iii) Ratio of loan loss reserves to loans and leases 90 days or more delinquent (including loans sold with full recourse) of at least 30 percent, and loan loss reserves at a specified balance sheet account that reflects the amount reserved for loans expected to be uncollectible;
- (iv) Operating liquidity ratio of at least 1.0 for the four most recent quarters and for one or both of the two preceding years (numerator of the ratio includes unrestricted cash and cash equivalents and the denominator of the ratio is the average quarterly operating expense).

**The CDFI Coalition opposes the addition of financial soundness standards to the certification process. Such standards may set unrealistic expectations for start-up and emerging CDFIs and could deter new CDFI formation. Furthermore, the complexities in setting and continuously maintaining financial viability data across multiple CDFI types exceeds the current capacity of the Fund's already constrained resources. The Fund is currently tasked with implementing several new programs and has pressing training and evaluation needs that have received insufficient attention over the last 8 years. The Coalition recommends the certification process remain an eligibility threshold rather than an assessment of the viability of the financing entity.**

(h) Should the CDFI Fund require certified CDFIs to annually submit current information on financial viability and other data necessary to assess the financial condition and social performance of the CDFI industry?

**The Fund does not currently have sufficient staff capacity to undertake the level of analysis that would be required to assess the financial condition of CDFIs across all**

sectors. As noted above, financial viability data should not be used as part of the certification process.

**While the Coalition understands the potential benefits of annual reporting by all certified CDFIs, we are only supportive if such reporting is minimal and not overly burdensome. If this approach is adopted, any data to be collected should be narrow in scope and be entered electronically or be drawn from regulatory agencies in the case of regulated CDFIs. We believe the value of the data is the creation of a more comprehensive understanding of the size, scope and impact of certified CDFIs. This collection of data may be adequate to provide a profile of the financial capacity of CDFIs without becoming an assessment of financial health. Currently, there is no comprehensive data source on the entire CDFI industry. Thus, the Fund has a unique opportunity to collect such information. The limited data points to be collected could be addressed in the upcoming request for public comment on the CIIS data collection effort.**

**We strongly urge the Fund to reduce the breadth of data currently required from awardees, particularly the Transaction Level Report (TLR), which is a time burden with minimal return. Many CDFIs expressed their concern before the TLR was initiated. The fact that the TLR proved to be an encumbrance leaves the Coalition concerned about the potential new burden resulting from “data creep” if annual reporting by all certified CDFIs is implemented.**

### 3. Holding Companies, Subsidiaries and Affiliates

The CDFI Fund’s authorizing statute provides conditions for CDFI qualification for a depository institution holding company, subsidiary or affiliate, establishing that a holding company may qualify as a CDFI if the holding company and the subsidiaries and affiliates of the holding company collectively satisfy the requirements to be certified as a CDFI (12 U.S.C. 4702(5)(B) and (C)). The CDFI Fund invites and encourages comments and suggestions germane to this issue, specifically:

(a) Should a certified CDFI that is a holding company, or its subsidiary and affiliate, be allowed to apply for a CDFI Fund award if the depository institution is also applying during the same funding round?

**The Coalition will defer to comments made by its CDFI banking sector members that are directly impacted by this provision.**

(b) Should holding companies, subsidiaries and affiliates of depository institutions be extended separate CDFI certifications, regardless of whether the entities can collectively satisfy the certification requirements?

**The Coalition believes the current certification requirements related to this provision should be retained.**

(c) Should all CDFI institution types be held to the “Conditions for Qualification of Holding Companies” set forth at 12 U.S.C. 4702(5)(B), as are depository institution holding companies?

**The Coalition believes the current certification requirements related to this provision should be retained.**

#### 4. Geographic and Institutional Diversity

The CDFI Fund’s authorizing statute states that the CDFI Fund “shall seek to fund a geographically diverse group of applicants, which shall include applicants from metropolitan, nonmetropolitan, and rural areas” (12 U.S.C. 4706(b)). The CDFI Fund invites and encourages comments and suggestions relating to geographic diversity, especially:

(a) Are CDFI awards adequately geographically diverse; if not, how should the CDFI Fund ensure geographic diversity?

**The Coalition believes the Fund is achieving a sufficient level of geographic diversity in its awards. We recommend that the Fund continue to implement policies and practices that result in a fair geographic distribution of awards based on the applicant pool and the quality of the applications. We recommend the Fund make these internal guidelines public.**

(c) How should the CDFI Fund define metropolitan area?

**The Fund’s current definition for metropolitan areas, based on OMB 99 04, is sufficient.**

(d) How should the CDFI Fund define nonmetropolitan area?

**Non-metropolitan areas should be defined as those census tracts not meeting either the Metropolitan or Rural definition.**

(e) How should the CDFI Fund define rural area?

**The current definition of rural areas, as set forth in OMB 99 04, is too restrictive. The CDFI Coalition recommends that the Fund convene a working group of CDFIs serving rural areas to consider alternative definitions (e.g. USDA Rural Housing (Section 520), ERS Rural-Urban Commuting Area Codes (RUCAs)).**

(f) How should the CDFI Fund define underserved rural area?

**The Coalition recommends that the Fund convene a working group of CDFIs serving rural areas to consider appropriate definitions for “underserved” rural areas.**

(g) Are there other underserved areas that should be considered for purposes of geographic diversity?

**We have no additional recommendations that other underserved areas be considered when determining whether the awards are geographically diverse.**

The CDFI Fund invites and encourages comments regarding institutional diversity as well, including:

(a) Should institutional diversity be a priority of the CDFI Fund?

**One of the strengths of the CDFI industry is the diversity of entities that bring a wide array of financial services and products to many different types of underserved communities and individuals. The Fund programs and awards should support all types of CDFIs. We believe there are improvements that can enhance the ability of each type of CDFI to submit competitive applications. These include:**

- 1. The Fund should ensure it retains well-qualified reviewers with sector-specific expertise to evaluate each type of CDFI in every funding round. This may require the Fund to revisit the levels of compensation for contract reviewers to ensure it has appropriate expertise. Furthermore, the Fund should be transparent about the degree to which the reviewers evaluating applications of a particular CDFI sector have in working with such sectors.**
- 2. Reviewer training and instructions on how to review the responses of different CDFI sectors should be enhanced and made more transparent to the public.**
- 3. The application should be amended to give direction on how different types of CDFIs should respond to particular questions where sector differences may impact their answer.**
- 4. We recommend that the Fund undertake an evaluation of its review process to ensure there are no unintentional barriers to success in the application or review process.**
- 5. The Fund should provide greater technical assistance to CDFIs in the area of communications and telling their stories.**

(b) Should the CDFI Fund designate a specific amount of funding for regulated depository institutions separately from loan funds and venture capital funds? If so, what proportion of the funding should be designated for CDFI banks and CDFI credit unions?

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

(d) If a special amount is not designated, what can the CDFI Fund do to achieve institutional diversity?

**As noted above, institutional diversity can be achieved through: (1) institution-specific instructions in the application; (2) employing reviewers with sector-specific expertise for the major types of CDFIs (e.g. banks, credit unions, venture funds, loan funds, CDFI intermediaries, micro CDFIs, Native CDFIs); (3) providing better direction to reviewers on how to evaluate different CDFI sectors on each element of the application; and (4) providing technical assistance to CDFIs in the area of communications and telling their stories.**

## 5. Financial Assistance

The CDFI Fund's authorizing statute allows flexibility in the forms of assistance provided. These may include equity investments, deposits, credit union shares, loans, grants and technical assistance, with certain limitations (12 U.S.C. 4707(a)(1)). The statute also sets forth the permissible uses of CDFI financial assistance award proceeds which include, among others, certain commercial facilities, businesses, community facilities, affordable housing and basic financial services (12 U.S.C. 4707(b)(1)). The CDFI Fund welcomes comments on issues relating to the forms of financial assistance, qualifications, uses, and general structure, particularly with respect to the following questions:

(a) As implemented through its Notices of Funds Availability (NOFA), which are issued for each funding round, the CDFI Fund has structured two categories for financial assistance applicants: "Core" and "Small and Emerging CDFI Assistance" (SECA) for applicants that were recently established or that have smaller assets compared to institutional type. Despite these two award categories, many CDFIs have grown and expanded their reach in recent years. Is there a point at which a CDFI should be considered to have "graduated" from and no longer be eligible for CDFI awards? If so, what should be the criteria (*e.g.*, successful award history, asset size, national reach, *etc.*)?

**The CDFI Coalition does not believe CDFIs of any size should graduate from the Fund's programs. All CDFIs need capital to grow. CDFIs are estimated to have a collective \$30 billion in combined assets which is only a fraction of the size of many large money center banks. The needs CDFIs address are so vast that it is unlikely there will ever be sufficient subsidy to fully address them.**

(b) If a CDFI were to "graduate" from CDFI award eligibility, should another program be developed for such an institution; if so, what type of financial assistance should those institutions receive?

**The CDFI Coalition does not believe CDFIs should graduate from the Fund's programs. Thus, no substitute program is recommended.**

(c) Under the CDFI Fund's authorizing statute, the CDFI Fund has the authority to make long-term, low-interest loans to CDFIs, dependent on matching funds. Is there a need for a loan product in addition to the CDFI financial and technical assistance awards and its lending authority? If so, please describe the product, *e.g.*, terms and conditions, matching funds requirement, etc.

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

(d) Is there a need for a CDFI federal loan guarantee and if so how would it be structured?

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

(e) Should a category be created specifically for CDFIs that serve a national market or are intermediaries? If so, what proportion of the appropriation should be allocated for such applicants?

**No. As a general principal, the CDFI Coalition opposes set-asides within the CDFI program for any type of entity or sector.**

(f) Are there changes the CDFI Fund could make to the financial and technical assistance awards that would make it more accessible or beneficial to certified CDFI banks?

**The Coalition will defer to comments made by its CDFI banking sector members that are directly impacted by this provision.**

(g) Should the CDFI Fund provide a technical assistance award to an organization (*i.e.*, a community development corporation) that proposes to create a new CDFI, even if that organization is not a CDFI itself?

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

(h) Should CDFIs be required to provide financial education to their customers; if so should there be a minimum level of education?

**No. The Fund should not require all CDFIs to provide financial education. Through the certification and recertification processes, the Fund currently ensures that each CDFI is providing a level of technical assistance ("Development Services") appropriate for their types of borrowers or investees. The type of such technical assistance is necessarily broad and diverse. The Fund should not otherwise create a specific requirement that CDFIs offer financial education.**

## 6. Award Cap

The CDFI Fund's authorizing statute states that except for technical assistance, the CDFI Fund cannot provide more than \$5 million of assistance in total during any three-year period to a single

CDFI, its subsidiaries and affiliates (12 U.S.C. 4707(d)). An exception is allowed for up to an additional \$3.75 million during the three-year period for a CDFI proposing to establish a subsidiary or affiliate for the purpose of serving an investment area or Target Population outside a State or metropolitan area presently served by the CDFI. The CDFI Fund seeks comments regarding whether awards should have a cap, specifically:

(a) Should CDFI Fund award amounts have a cap or should award amounts be based on merit and availability?

**The Coalition recommends that annual awards not be capped and the 3 year limitation on funding be eliminated. The CDFI Coalition is, however, mindful of the need to ensure that as many qualified applications as possible be funded each year. The lack of an award cap should not diminish the number of awards. In no event should an individual entity be awarded more than 10% of the available appropriated funds.**

(b) Should subsidiaries and affiliates have a funding cap that is separate from their parent CDFI?

**No.**

(c) Should the CDFI Fund make an award to only one affiliated organization during the same funding round?

**Yes.**

(d) Is “\$5 million of assistance in total during any three-year period” too restrictive? If so, what are the alternatives, if any?

**Note comment above in (a).**

## 7. Matching Fund Requirements

The CDFI Fund’s authorizing statute requires that financial assistance awards must be matched with funds from sources other than the federal government on the basis of not less than one dollar for each dollar provided by the CDFI Fund. It further states that the matching funds “shall be at least comparable in form and value to assistance provided by the Fund” (12 U.S.C. 4707(e)). Assistance cannot be provided until the CDFI has secured firm commitments for the matching funds. The CDFI Fund encourages comments and suggestions germane to match requirements established in the statute, specifically:

(a) Does the dollar-for-dollar matching funds requirement restrict a CDFI’s ability to apply for a financial assistance award? If so, what should be the matching funds requirement?

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

(b) Should the matching funds continue to be restricted to comparable form and value or should any type and source of funding be allowed as matching funds?

**We recommend deleting the requirement that matching funds be provided in the same “form” as the Federal monies requested. A broader set of sources of funds should be eligible as matching funds. The form of the award should be at the discretion of the Awardee and the Fund. To the maximum extent possible, the Fund should work to ensure its award monies are used to build CDFI equity capital.**

(c) The statute provides certain exceptions to the matching funds requirement and provides the CDFI Fund the flexibility to reduce the match requirement by 50 percent in certain circumstances. Is this appropriate?

**Yes. We recommend Congress grant the CDFI Fund Director authority to waive or amend the matching funds requirements based on national economic indicators and/or for CDFIs in geographies declared Federal disaster areas.**

(d) The statute allows the applicant to provide matching funds in a different form if the applicant has total assets of less than \$100,000; serves nonmetropolitan or rural areas; and is not requesting more than \$25,000 in assistance. Should this provision apply to all applicants? Should the asset size and assistance request be increased?

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

### *C. CDFI Training*

The CDFI Fund’s authorizing statute gives the CDFI Fund the authority to create a training program to increase the capacity and expertise of CDFIs and other members of the financial services industry to undertake community development finance activities (12 U.S.C. 4708). In August 2009, the CDFI Fund announced a new Capacity- Building Initiative to greatly expand technical assistance and training opportunities for CDFIs nationwide. Comments regarding this new initiative are welcome, specifically:

(a) Will the Capacity-Building Initiative, as currently structured, provide the training that CDFIs need to deliver financial products and services to underserved communities nationwide?

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

(b) The first training products that will be offered by the Capacity-Building Initiative will include affordable housing and business lending, portfolio management, risk assessment, foreclosure prevention, training in CDFI business processes, and assistance with liquidity and capitalization challenges. What other topics should this initiative provide in the future?

**The CDFI Coalition has not yet formed a position on this question since the vendors and offerings of the pending Capacity Building Initiative have not yet been announced.**

(c) Are other technical assistance and training resources needed?

**The CDFI Coalition has not yet formed a position on this question since the vendors and offerings of the pending Capacity Building Initiative have not yet been announced.**

*D. Capitalization Assistance to Enhance Liquidity*

The CDFI Fund's authorizing statute created a Liquidity Enhancement (LE) Program (12 U.S.C. 4712) that has never received an appropriation. In general, the statute authorized the CDFI Fund to provide assistance for the purpose of providing capital to organizations to purchase loans or otherwise enhance the liquidity of CDFIs if the primary purpose of the organization is to promote community development. If funds were appropriated for this program:

(1) Any assistance provided by the CDFI Fund would require matching funds on the basis of not less than dollar-for-dollar and would need to be comparable in form and value to the assistance provided by the CDFI Fund; (2) organizations receiving LE Program assistance would not be able to receive other financial or technical assistance from the CDFI Fund; (3) awards could not be made for more than \$5 million to an organization or its subsidiaries or affiliates during any three-year period; and (4) certain compliance information would be required. The CDFI Fund welcomes comments on issues relating to the LE Program, particularly with respect to the following questions:

(a) Do CDFIs have a liquidity need?

**CDFIs face barriers to managing liquidity linked to the types of financial products offered and the way they do business. CDFI-originated loans are often tailored to the needs of individual borrowers; a feature that distinguishes them from traditional lenders that use homogenized underwriting standards and documentation to enable a purchaser to better evaluate the loans being sold. Customization and below-market pricing by CDFIs is highly beneficial to borrowers, yet has hampered the ability of many CDFIs to take advantage of secondary markets and other portfolio liquidity management tools available to the broader financial services sector. This lack of access forces CDFIs to operate largely as portfolio lenders. Coupled with the lack of sufficient equity capital to support new borrowing, portfolio "illiquidity" keeps the CDFI field small and its impact potential unrealized. To reach new levels of scale and sustainability, the field must find strategies to move loan assets (in whole or part) off of the balance sheets of CDFIs as a means of recycling capital to make new loans.**

**The traditional financial services industry has evolved to provide multiple infrastructure tools and institutions to manage portfolio liquidity. These developments include: (1) active (albeit temporarily dysfunctional) secondary markets for mortgage, small business, higher education, consumer, and other types of loans; (2) access to affordable federal agency borrowing windows (e.g. Federal Home Loan Banks, Federal Reserve); (3) loan syndication and participation networks; (4) formal and informal networks of correspondent lenders; (5) bankers' banks and corporate credit unions;**

**(6) access to bond markets; (7) deposit insurance; and (8) deposit raising innovations (e.g. CDARS).**

**To fully respond to demand within communities and realize their social impact potential, the Fund could help CDFIs by exploring multi-pronged strategies to create liquidity through sales of loans. The most important step the Fund could take is to offer funding for pilot programs and fund evaluations of these efforts to find one or more workable strategies.**

**(b) Would the LE Program, as structured, help address CDFIs' liquidity needs?**

**Yes, if the changes recommended herein are adopted. The Liquidity Enhancement Program (LEP) needs to be updated to reflect current market conditions, as well as the evolution of the CDFI industry since the statute was created 15 years ago.**

**First, the authorizing statute contains several barriers that should be removed to promote investment in institutions and tools that will help CDFIs manage liquidity. Unless these barriers are removed, the LEP will be severely limited in its ability to develop products, services and tools that are sensitive to the needs of the community development industry and the types of customer services. The authorizing statute should be amended to eliminate: (1) the requirement to raise matching funds; (2) the cap on award amounts; and (3) the prohibition of LEP awardees from participating in other CDFI Fund initiatives.**

**Second, the authorizing statute's eligible use of funds should be flexible to support a wide range of liquidity management tools, strategies and business models. At this stage in the evolution of the CDFI industry, flexibility is needed to explore multi-pronged strategies to manage portfolio liquidity. Where possible, the CDFI industry should strive to gain access to established tools and institutions. In other cases, it may be necessary to build and grow infrastructure tools and institutions that are tailored to the industry's unique needs. Enhancing liquidity will grow the scale and impact of the entire industry over the long term and will help CDFIs provide capital to people and communities that need it most.**

**(c) Should the restrictions related to the award cap and/or matching funds be removed as a means to create larger impacts?**

**Yes, the restrictions related to the award cap and matching funds should be removed. The LEP needs to be updated to reflect current market conditions, as well as the evolution of the CDFI industry since the statute was created 15 years ago. We recommend the award cap and matching funds requirement be eliminated. Based on the realignment of the market that has taken place over the past two years, it will likely be many years before there will be sufficient equity capital available to meet the matching funds requirements. This lack of equity will hamper the growth of liquidity management institutions and their ability to grow to a large enough scale to make an impact on the CDFI industry and the communities they serve. The leverage of the LEP without an equity match requirement will still be very significant. Receipt of Federal**

**equity capital will enable Liquidity Management Fund (LMFs)<sup>1</sup> to leverage private market debt and other resources that otherwise would not be deployed to help communities. The restriction prohibiting LEP awardees from participating in other CDFI Fund initiatives should be eliminated. The entities most likely to have the expertise, track record, and interest in developing products, services and tools that will meet the needs of the CDFI industry are those already working in the sector. To eliminate this group of institutions would be shortsighted and likely eliminate ideas and opportunities with the highest probably of success from participation.**

(d) What changes are needed to make this a viable initiative?

**See comments above in (b) and below in (e).**

(e) Are there other program ideas better suited to providing liquidity for CDFIs?

**If the LEP's current statutory barriers (cited above) are removed and the use of funds is flexible, LEP will become a critical tool for solving a variety of liquidity challenges facing CDFIs. LEP capital could be used to support a variety of new and existing liquidity management tools, including:**

**Equity Capital for Liquidity Management Funds: Equity capital could be used to support the growth of existing and new CDFIs or others operating Liquidity Management Funds (LMFs) that help CDFIs manage liquidity by: (1) advancing loans or lines of credit to or facilitating placement of deposits in CDFIs to support relending; or (2) purchasing CDFI-originated assets to hold in portfolio or sell to third parties (thus allowing CDFIs to recycle loan capital such as secondary markets, participation and syndication networks).**

**Loan Acquisition Guarantee Facility: Create a full or partial guarantee instrument for lenders and/or investors that purchase CDFI-originated assets screened by CDFI Fund-approved Liquidity Management Funds (LMFs). The facility could offer low cost, long term loans and lines of credit to LMFs to: (1) temporarily warehouse CDFI-originated assets for sale to investors; and (2) support lending and/or investing. This facility will help build industry infrastructure by supporting development of secondary markets, loan syndications or participation networks, and other liquidity management tools.**

**CDFI Institution Level Guarantee Facility: Create a full or partial guarantee instrument for third parties that make loans and investments into CDFIs. CDFI recipients will pay a guarantee fee to the CDFI Fund. Monies advanced with this guarantee may be eligible to be used as collateral for FHLB advances, making the**

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<sup>1</sup> Liquidity Management Funds (LMFs) are a general term used to describe organizations eligible to participate in the LEP (based on the statutory requirements described in 12 USC 4712 that have a primary purpose of promoting community development) and provide products and services that help CDFI manage liquidity. Including (1) purchase of loans or loan participations, or loan syndication; (2) sale of loans, asset-backed securities; (3) management of partnerships, limited liability companies; (3) origination of loans and investments in CDFIs; and (4) other activities deemed appropriate by the CDFI Fund.

**FHLB financing accessible to a broad range of CDFIs authorized for FHLB membership under *Housing and Economic Recovery Act of 2008 (HERA)*.**

**The models cited above are examples of the types of products, services, and tools that could help a variety of CDFIs manage liquidity. Above all, we urge the CDFI Fund to encourage innovation through the LEP to test a variety of strategies to address liquidity challenges impacting various sectors of the industry.**

#### *E. Native Initiatives*

In its fiscal year 2001 appropriation and every fiscal year since, the CDFI Fund has been appropriated funds for the purpose of making financial assistance and technical assistance awards and to provide training designed to benefit Native American, Alaskan Native and Native Hawaiian communities (collectively referred to as “Native Communities”). While Native Initiatives awards have been through several iterations, the current award vehicle are Native American CDFI Assistance (NACA) awards through which the CDFI Fund provides financial and technical assistance awards to Native CDFIs. The CDFI Fund welcomes comments on issues relating to the Native Initiatives, particularly with respect to the following questions:

(a) Should the CDFI Fund seek statutory authority to make the NACA awards permanent?

**As a general principal, the CDFI Coalition opposes the creation of set asides. Given the unique and difficult challenges faced by Native American communities in addressing persistent and deep poverty, however, we continue to be supportive of NACA as a component of the Fund’s initiative. Congress has repeatedly provided annual appropriations for a Native American Program, which we support and urge to be continued into the future. We will defer to the comments submitted by Native organizations to the remaining questions in this sector.**

(b) What other services should the CDFI Fund provide to Native Communities?

(c) What improvements could be made to Native Initiatives and, in particular, to NACA awards?

(d) Should there be a limit on the number of technical assistance grants an applicant can receive?

(e) Should the CDFI Fund provide “seed funding” financial assistance grants to non-certified, emerging Native CDFIs for the purpose of increasing lending in Native Communities?

(f) Many Native CDFIs have grown and expanded their reach in recent years. Is there a point where a Native CDFI should be seen as having “graduated” from NACA financial assistance and be required to compete for a CDFI financial and technical assistance award? If so, what should be the criteria?

#### *F. Bank Enterprise Awards (BEA)*

The purpose of BEA is to provide an incentive for insured depository institutions to increase their activities in distressed communities and provide financial assistance to CDFIs. The CDFI Fund welcomes comments on issues relating to the eligibility of certain activities, qualifications and general program structure, particularly with respect to the following questions:

(1) Are the qualified activity definitions used for BEA still applicable; are there any new definitions that should be included (if so, please provide new definitions)?

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

(2) An insured depository institution may apply for a BEA award based on its activities during an assessment period, which opens the program to all FDIC insured banks and thrifts. The statute that authorized BEA (12 U.S.C. 1834a(j)(3)) states that an insured depository institution is defined by section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)), which does not include credit unions whose deposits are insured by the National Credit Union Administration. Currently, credit unions can only be qualified recipients of loans and deposits from BEA applicants (“CDFI Partners”). Should only banks and thrifts certified by the CDFI Fund be eligible to apply for BEA? Should federally insured, certified CDFI credit unions be eligible for BEA? Should only those applicants of a certain asset class (*e.g.*, “small” banks with less than \$1.098 billion in assets) be permitted to apply for BEA? Should there be a minimum funding level for awards (*i.e.*, \$6,000)?

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

(3) The statute that authorized BEA states that insured depository institutions that meet the community development organization requirements shall not be less than three times the amount of the percentage applicable for insured depository institutions that do not meet such requirements (12 U.S.C. 1834a(a)(5)). The statute does require that CDFI-certified banks receive priority in determining award amounts and in funding awards. Should a new priority funding structure be created to specifically fund certified CDFIs before all other types of institutions?

**The CDFI Coalition does not have a consensus view on this question. Thus, individual Coalition members will submit their views independently.**

(4) The statute that authorized BEA states that loans and other assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, are qualified activities (12 U.S.C. 1834a(a)(2)(A)).

(a) By applying the criteria of 12 U.S.C. 1834a(b)(3), approximately 2,700 census tracts fully meet the definition of a BEA distressed community. Should the definition of a BEA distressed community be revised and, if so, how?

**The current definition of Distressed Community should be made consistent with CDFI program’s Investment Area definition to enable the programs to work together in a coherent manner.**

(b) Should the geographic requirement be eliminated? If so, why?

**The Coalition will defer to comments made by its CDFI banking sector members that are directly impacted by this provision.**

(c) Should the definition of “integrally involved” (set forth at 12 CFR 1806.103(gg)) be changed? If so, how?

**Yes. The “integrally involved” definition should be eliminated. By nature, CDFIs are integrally involved in their communities. The BEA Program documentation requiring a CDFI to demonstrate they are “integrally involved” is duplicative of the CDFI certification process. The provision creates unnecessary paperwork for all CDFIs receiving grants, investments, loans, deposits, and other forms of assistance from BEA applicants.**

(d) Should a Community Reinvestment Act rating be used by the CDF Fund in its evaluation of a depository institution’s commitment to serving low-income and underserved communities?

**The Coalition will defer to comments made by its CDFI banking sector members that are directly impacted by this provision.**

(5) The statute that authorized BEA specifies the types of qualifying activities and states that the award must be based on an increase in those activities over a period of time (12 U.S.C. 1834a(a)(2)). The current BEA structure bases award amounts solely on a formula and requires a demonstrated increase in activity, making BEA retroactive by design. How should the BEA be restructured, if at all? For example, should BEA have a leverage requirement; should awards be based on future or proposed community development activities, etc.?

**The Coalition will defer to comments made by its CDFI banking sector members that are directly impacted by this provision.**

(6) The BEA regulations (12 CFR part 1806.201–305) outline the measuring and reporting of qualified activities, calculations for estimating award amounts including the selection process for awards, and award agreements, sanctions, and compliance.

(a) Should these sections be updated? If so, how?

**The Coalition will defer to comments made by its CDFI banking sector members that are directly impacted by this provision.**

(b) Are any changes needed to make the program work better?

**The Coalition will defer to comments made by its CDFI banking sector members that are directly impacted by this provision.**

### *G. Small Business Capital Enhancement Program*

The Riegle Community Development and Regulatory Improvement Act of 1994 included a Small Business Capital Enhancement (SBCE) Program (12 U.S.C. 4741), which has never received an appropriation. If funds were appropriated for this program: (1) The SBCE would be a complement

to small business capital access programs (CAPs) implemented by certain States that assist financial institutions in providing access to needed debt capital; (2) any State would apply to the CDFI Fund for approval to be a participating State under the SBCE and to be eligible for reimbursement by the CDFI Fund if that State has an established CAP and funds available in the amount of at least \$1 for every two people residing in the State are available and committed for use; (3) the SBCE would provide matched funding to States to provide portfolio insurance for business loans based on a separate loss reserve fund for each financial institution; (4) loan terms would be at the discretion of the borrower and financial institution; (5) a participation agreement would be required from all parties and, upon receipt of agreement, the participating State would enroll the loan and make a matching contribution to the reserve fund (not less than the premium charges paid by the borrower and the financial institution); (6) the premium charges would not be permitted to be less than three percent or more than seven percent of the amount of the loan; (7) each State would be required to file a quarterly report with the CDFI Fund indicating the total amount of contributions, among other information; and (8) the CDFI Fund then would reimburse the State in an amount equal to 50 percent of the amount of contributions by the State to the reserve funds that are subject to reimbursement. The CDFI Fund welcomes comments on issues relating to the viability of such a program, especially with respect to the following questions:

(a) Is there a need for the SBCE?

**The CDFI Coalition does not view the SBCE as a priority for the CDFI Fund at this time. The program has little relationship to building the capacity of CDFIs. Increased funding for existing programs, implementation of new programs, strengthening the Fund's compliance mechanisms, and increased training, program evaluation and research are more important to CDFIs.**

(b) What changes should be made to the SBCE legislation to make it most effective?

**See comments in (a) above.**

(c) Are the limits on reimbursement adequate to meet current need?

**See comments in (a) above.**

(d) Is there another program idea better suited to the needs of America's small businesses?

**See comments in (a) above.**

#### *H. General Comments*

The CDFI Fund is interested in any additional comments regarding the Riegle Community Development and Regulatory Improvement Act of 1994.

**We sincerely thank the Fund for the opportunity to share our views on proposed changes to its authorizing statute. The comments the Fund will receive from the CDFI Coalition and its members create a road map to enhance the Fund's program offerings and activities. We**

**strongly encourage the CDFI Fund to implement these recommendations. We believe all of the recommendations will help increase access to capital and financial services to low income communities across the country. We look forward to working with you to continue to shape the future direction of the Fund and its programs.**

Sincerely,

**ACCION USA**

**Aleutian Financial, Inc**

**Alternatives Federal Credit Union**

**Association for Enterprise Opportunity**

**Calvert Foundation**

**Carsey Institute, New Hampshire University**

**Coastal Enterprises, Inc**

**Community Development Bankers Association**

**Community Development Venture Capital Alliance**

**Community Development Law Center**

**Community Investment Corporation**

**Community Reinvestment Fund**

**Community Ventures Corp.**

**Council for Native Hawaiian Advancement**

**Finance Fund**

**First Nations Oweesta Corporation**

**Florida Community Loan Fund, Inc**

**Housing Assistance Council**

**IFF**

**Kentucky Highlands Investment Corporation**

**National Community Investment Fund**

**National Federation of Community Development Credit Unions**

**National NeighborWorks Association**

**NCB Capital Impact**

**Nonprofit Finance Fund**

**Norm Mccloughlin**

**North Carolina Minority Support Center**

**Opportunity Finance Network**

**Opportunity Fund**

**PathStone Enterprise Center**

**People Fund**

**Progress Financial Corporation**

**Salt River Financial Services Institution**

**Self-Help**

**ShoreBank**

**SJF Ventures**

**Southern Bancorp**

**Sunrise Community Banks**

**Woodstock Institute**